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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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INDEMNITY INSURANCE COMPANY OF ECF CASE
NORTH AMERICA :
:
Plaintiff, : 08 Civ. 4416 (LTS)
:
- against - : **COMPLAINT**
:
ZIM AMERICAN INTEGRATED SHIPPING :
SERVICES COMPANY, INC.; ZIM :
INTEGRATED SHIPPING SERVICES :
LTD.; ZIM CONTAINER SERVICE; ZIM :
LINES; GLOVIS CO., LTD.; M/V “ZIM :
EMIRATES WATS”, her engines, tackle, :
boilers, etc.; :
:
Defendants. :
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Plaintiff, through its undersigned attorney, alleges as follows for its complaint against defendants:

1. This action involves an admiralty and maritime claim within the meaning of Rule 9(h) with respect to the carriage of the subject cargo by sea and falls within the Court’s pendent, ancillary, and supplemental jurisdiction as to the remaining aspects of the claim. Plaintiff seeks recovery for cargo loss caused by defendants’ breaches of contract and torts. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

2. Plaintiff Indemnity Insurance Company of North America is a corporation organized under the laws of, and with its principal place of business in, the state of Pennsylvania. Plaintiff maintains an office at 140 Broadway, New York, New York, and sues herein as subrogated insurer of the cargo in suit, having paid the insurance claim of Arvin Meritor, and for and on behalf of the shipper, consignee and owner of the cargo as their interests may appear.

3. The captioned defendants are believed to be corporations organized under the laws of, and with their principal places of business in, foreign sovereigns or certain of the fifty states other than Pennsylvania. Upon information and belief defendants are engaged in the business of common carriers, bailees, warehousemen, and/or the provision of services related to such activities, and conduct such business with respect to shipments to, from and within the State of New York and the United States as a whole within the meaning of Rule 4(k)(2) Federal Rules of Civil Procedure.

4. Upon information and belief the captioned vessel is now, or will be during the pendency of this action, within the admiralty and maritime jurisdiction of this Honorable Court or is otherwise subject to jurisdiction pursuant to Rule 4(k)(2) Federal Rules of Civil Procedure.

5. This action involves damage to a shipment of automobile parts, including door latches, which moved, or was intended to move, in container CLHU4196254 aboard the M/V "ZIM EMIRATES WATS", Voyage 726, from Busan, Korea, to Montgomery, Alabama, as described more fully in Zim Integrated Shipping Services Ltd. bill of lading ZIMUSEL1251299 and Glovis Co., Ltd. bill of lading PUM007060111 both dated on or about July 3, 2007, and others (Zim Ref.: CA08-03020)

6. The aforementioned damage and loss was caused by the unseaworthiness of the carrying vessel and container as well as defendants' reckless failure to properly load, stow, lash, carry, discharge, deliver and care for the subject cargo, and their unreasonable deviations from the terms of the contract of carriage

7. As a result of the foregoing, plaintiff and those on whose behalf it sues, has sustained damages in the amount of \$81,494.45 for which defendants are jointly and severally liable as common carriers, bailees and/or warehousemen for hire.

8. Plaintiff sues on its own behalf and as agent and trustee for and on behalf of anyone else who may now have or hereafter acquire an interest in this action.

WHEREFORE, plaintiff demands judgment against defendants jointly and severally in the amount of \$81,494.45 together with interest at the rate of 9% per annum and the costs of this action and prays that this Honorable Court issue its process against the aforesaid vessel in rem.

Dated: New York, New York
May 8, 2008

LAW OFFICES,
DAVID L. MAZAROLI

s/David L. Mazaroli

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